

United States District Court  
Middle District of Pennsylvania

①  
11-15-00  
[Signature]

Issa Mutlaq,  
Plaintiff,

-v-

John Crosson, whom is an Immigration and Naturalization Service Deportation Officer, Steven M. Wacha, whom is an Officer of the Immigration and Naturalization Service, and Charles Zemski, whom is the District Director of the Immigration and Naturalization Service,  
Defendants.

1: CV 00-1996

COMPLAINT - Civil Action

Jury Trial Demanded

RECEIVED  
SCRAP

NOV 13 2000

MARY E. DANE [Signature] CLERK  
PER [Signature] DEPUTY CLERK

Civil Action Complaint

Petitioner pro se persons and respectfully submits this motion.

Petitioner urges this Honorable Court to construe this motion  
Liberally and cure all procedural errors as adjudged by the United  
States Supreme Court to States and Federal Court in **Haines v. Kerner**, 404 U.S. 519 (1972).

NOV 14 2000

Preliminary Statement

PER [Signature] DEPUTY CLERK

This is a Civil Rights Action filed by Issa Mutlaq, an I.N.S. prisoner at Snyder County Prison, seeking damages and injunctive relief under 42 USC § 1983, alleging denial of medical care in violation of the Eighth Amendment to the United States Constitution. The plaintiff also alleges the torts of negligence.

### **Jurisdiction**

1. The court has jurisdiction over the plaintiff's claims' at violations of Federal Constitutional Rights under 42 USC §§ 1331(a) and 1343.
2. The court has supplemental jurisdiction over the plaintiff's state law tort claims under 28 USC § 1367.
3. The court has jurisdiction over the plaintiff's claim because the plaintiff has exhausted all administrative remedies at Snyder County Prison.

### **Parties**

4. The plaintiff, Issa Mutlaq, was incarcerated under Immigration and Naturalization Service detention at Snyder County Prison during the events that are described in this complaint, and the Immigration and Naturalization Service will be referred to throughout the remainder of this complaint as I.N.S.
5. Defendant, John Crosson, is an Deportation Officer of the I.N.S., that oversees, and makes decisions on I.N.S. detainees at Snyder County Prison.
6. Defendant, Steven M. Wacha, is an Officer of the I.N.S., that oversees, and makes decisions on I.N.S. detainees at Snyder County Prison regarding any and all medical issues.
7. Defendant, Charles Zemski, is the Director of the I.N.S., that oversees and makes decisions on I.N.S. detainees at Snyder County Prison.

### Facts

8. On June 5, 2000, the plaintiff, Issa Mutlaq, was housed at Snyder County Prison as an I.N.S. detainee.
9. On or about June 20, 2000, the plaintiff's medical problems, regarding orthodontal issues, started.
10. On or about June 20, 2000, the plaintiff spoke to the nurse at Snyder County Prison, Mrs. Patti Gessner, and told her, "My teeth are bleeding and my gums are hurting me." Mrs. Patti Gessner stated, "The dentist comes once a month, and there is nothing I can do for you."
11. On or about June 21, 2000, the plaintiff wrote to medical regarding his orthodontal problems.
12. On or about June 28, 2000, Mrs. Patti Gessner stated, "The doctor told me to put you on Penicillin, until you see the dentist."
13. On or about July 13, 2000, the plaintiff seen the dentist that came to Snyder County Prison, for approximately two minutes. After explaining the bleeding of the gums and the pain, the dentist stated, "You have to go to an outside specialist." At this time Mrs. Patti Gessner stated, "We will have to get permission from I.N.S. to bring you to an outside specialist."
14. From July 13, 2000, to August 6, 2000, the plaintiff continued to complain to the medical staff regarding his bleeding and pain, but to no avail.
15. On or about August 6, 2000, the plaintiff spoke to John Crosson, whom is in charge of the plaintiff's case, and pleaded to John Crosson to, "Please send me back to my country."
16. From August 6, 2000, to September 2, 2000, the plaintiff

continued his complaints to medical staff regarding his bleeding and pain, but to no avail.

17. On or about September 2, 2000, the plaintiff received his request for Dental Care back with a Denial, which was dated September 1, 2000, from Steven M. Wacha.(see Exhibit #A)
18. From September 2, 2000, to October 10, 2000, the plaintiff continued his complaints to all staff at Snyder County Prison, but to no avail, because now the staff states, "I.N.S. has denied medical treatment, and therefore our hands are tied."
19. On October 10, 2000, the plaintiff sent a request to medical stating, "I do have pain so much in the left bottom teeth. I would like to see the doctor immediately, may I please." And the reply was, "Ty1. every med. pass along with PenUK x 5 days till Nov.9 when the dentist will be here." (see Exhibit #B)
20. On October 18, 2000, the plaintiff filed for a grievance, and stated his problems again regarding bleeding and pain in his gums. (see Exhibit #C)
21. On October 25, 2000, the plaintiff received the reply to his October 18, 2000, grievance. The grievance stated, "Inmate Mutlaq seen dentist on July 13, 2000, peridental disease present. I.N.S. denied treatment. Will be reseen by dentist on 11-9-00 for toothache. Seen on 10-20-00 by Dr.Bogner, has gingivitis - ordered dental eval; continue proper brushing, pen UK for toothache c/o infection." (see Exhibit #D)
22. As of October 31, 2000, the plaintiff still has bleeding, pain, and gingivitis in his gums, and still is being refused for proper dental care by I.N.S.

### **Denial of Medical Care**

23. From June 20, 2000, to October 31, 2000, the plaintiff has only been seen once by a dentist for 2 minutes, and that dentist suggested he have outside dental care from a proper facility. And never has the dentist taken any X-rays to make a proper evaluation.]
24. As stated in the statement received on August 2, 2000, I.N.S. has denied plaintiff of dental treatment.
25. On information and belief, when a prisoner files a grievance, the grievance staff should call the matter to the attention of those individuals responsible for the matter that the grievance concerns.
26. Defendant, John Crosson, is responsible for handling information for an I.N.S. detainee to receive proper medical attention and is better known as the "point of contact" for an I.N.S. detainee at Snyder County Prison.
27. Defendant, Steven M. Wacha, is responsible for implementing and handling the medical decisions for I.N.S. detainees at Snyder County Prison.
28. Defendant, Charles Zemski, is responsible for all issues concerning I.N.S. detainees, and oversees all employees of the I.N.S.
29. After 5 months of complaints, defendants still deny the plaintiff his proper medical attention.
30. On information and belief, if the plaintiff is not promptly provided with proper medical attention, he risks permanent medical damage.

### **Claims For Relief**

31. The actions by the defendants, in allowing the negligence of not allowing the plaintiff proper medical attention, is done maliciously and sadistically and constitutes cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.
32. The actions of the defendants in allowing negligence against the plaintiff, constitutes the tort of neglect.
33. The failure of the defendants to take action to resolve the plaintiffs complaint, constituted deliberate indifference, and contributed to and proximately caused the above described violation of the Eighth Amendment Rights of the United States Constitution.
34. The actions by the defendants by refusing to allow medical treatment, further denied the plaintiff his serious medical needs and shows the defendants deliberate and direct neglect.

### **Relief Requested**

Wherefore, plaintiff request that the court grant the following relief:

A. Issue a declaratory judgement stating that:

1. The abuse of the plaintiff, by the defendants violated the plaintiff's rights under the Eighth Amendment to the Constitution, constituted neglect under state law.
2. Defendants actions in making a decision to deny medical care, and action that continue to sustain abuse is a continuation of Defendants violating the plaintiff's rights under the Eighth Amendment of the United States Constitution.

B. Issue an injunction ordering the defendants or their agencies to:

1. Immediately arrange for the plaintiff to be taken to a qualified dentist with qualified facilities.
2. Immediately arrange for the plaintiff to receive the appropriate medical attention necessary that is recommended by a qualified dental facility.
3. Carry out without delay the treatment directed by such dental facility.

C. Award compensatory damages in the following amounts:

1. \$100,000.00 jointly and severally against defendants for the physical injuries sustained as a result of their neglect to the plaintiff.
2. \$100,000.00 jointly and severally against defendants for the extreme emotional stress, suffering, and mental anguish sustained as a result of their neglect to the plaintiff.

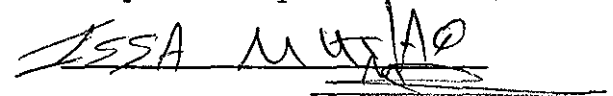
D. Award punitive damages in the following amounts:

1. \$30,000.00 each against defendants, John Crosson, Steven M. Wacha, and Charles Zemski.

E. Grant such other relief as it may appear that the plaintiff is entitled.

Dated October 31, 2000.

Respectfully Submitted,



Issa Mutlaq  
Snyder County Prison  
600 Old Colony Road  
Selinsgrove, Pa 17870

**Exhibit # A**



MR. MUTLAQ,

YOUR DENTAL WORK  
WAS DENIED BY  
INS/PHS.

*John Crosson*  
JOHN CROSSON

1845; Aug-2-00 2:55PM;  
93055521845;  
Date: 8/2/2000 Time: 2:38:28 PM

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717 374 7921

AUG. 02 2000 08:53AM P2

ATION REQUEST  
URALIZATION SERVICE

Date: 8/2/00

City SELINGROVE State PA

FORMATION

SSA MI Sex: M/F

Alien Number: 28476192

Country of Origin: JORDAN

Cust  
6-5-2000

REASON FOR REFERRAL

Requested Service/Procedure: *see request for*  
Findings: *gum dent scaling*  
Results:  
Diagnosis:  
Requesting Provider:

OFFSITE PROVIDER INFORMATION

Referred To: Telephone: ( )  
Address: Appointment Date: / /  
City: State Zip Appointment Time:  
Cost Estimate:

PRAUTHORIZATION ACTION

AUG - 2 2000  
Date: / /

DENIED / APPROVED (PENDING) *8/2/00*

Reason for Denial: *Not eligible*  
*J. E. Garabis*

LUIS E. GARABIS DDS  
DENTAL CONSULTANT

**DENIED**

Exhibit # B

# **SNYDER COUNTY PRISON**

## REQUEST SLIP

NAME: Mutko

ID#: 0000327 HOUSING AREA: B-7

DATE: 10-10-00 TIME: \_\_\_\_\_

TO: (MUST CHECK ONE)

WARDEN \_\_\_\_\_

COUNSELOR \_\_\_\_\_

DEPUTY WARDEN \_\_\_\_\_

RECORDS \_\_\_\_\_

SUPERVISOR \_\_\_\_\_

NURSE/DOCTOR ☒

SECRETARY \_\_\_\_\_

~~DEPUTY WARDEN~~ \_\_\_\_\_

MAINTENANCE \_\_\_\_\_

PARALEGAL \_\_\_\_\_

OTHER \_\_\_\_\_

SUBJECT: (STATE BRIEFLY YOUR REQUEST)

I do have a pain  
so much in the left bottom tooth  
I would like to see the doctor  
immediately may I please.

Thank you

SIGNATURE: Mutko

RESPONSE:

Tyl every med pass along  
with Pen UK x 5 days till  
Nov 9 when the dentist will  
be here

REQUEST SLIPS NOT SIGNED WILL NOT BE ADDRESSED

Exhibit # C

## SNYDER COUNTY PRISON

## REQUEST SLIP

NAME: MULLASID#: 0000327 HOUSING AREA: B7DATE: 10-18-00 TIME: 8:30

TO: (MUST CHECK ONE)

WARDEN \_\_\_\_\_

COUNSELOR \_\_\_\_\_

DEPUTY WARDEN \_\_\_\_\_

RECORDS \_\_\_\_\_

SUPERVISOR 4 \_\_\_\_\_

NURSE/DOCTOR \_\_\_\_\_

SECRETARY \_\_\_\_\_

KITCHEN \_\_\_\_\_

MAINTENANCE \_\_\_\_\_

PARALEGAL \_\_\_\_\_

OTHER \_\_\_\_\_

SUBJECT: (STATE BRIEFLY YOUR REQUEST)

I would like to file  
an grievance against the  
nurse

SIGNATURE: \_\_\_\_\_

RESPONSE:

This matter could not be resolved.  
A grievance form was given.  
Copies of grievance are  
not permitted.

J. Smith  
10-18-00

REQUEST SLIPS NOT SIGNED WILL NOT BE ADDRESSED

Exhibit # D

## INMATE GRIEVANCE FORM

(Department Head Level)

Inmate's Name: MUTLAG ISSA Reg. No: 0000327

Type of Grievance: ( ) Standard Grievance (✓) Emergency Grievance

Nature of Grievance: Dear Sir, I have extreme pain  
from a tooth problem over three months now.  
I have not been eating right and I'm suffering  
right now over this problem. I have been taking  
Amoxicillin to no avail. I have seen a dentist  
3 months back, he told me I have to go outside  
with this problem!!! The INS refused to allow  
me to go outside, why I don't mb? Can someone  
help me before or? This date is when the nurse  
said I will be able to see a dentist???

Thank you and I wait for a reply...

(Additional paper may be used if required)

M

(Signature of Inmate)

10-18-00

(Date)

\*\*\*\*\*

Department Head's Response: Inmate Mutlag seen dentist on  
July 1300 - No cavities noted, periodontal disease present  
suggest quadrant scaling. Quadrant scaling denied  
by INS - NOT eligible! Custody of INS since 6-5-00.  
June 2000 did take Penic D/T complain of toothache  
was seen by dentist. Was seen by Dr. Bagman  
in Aug. for 40 tie numb. No further 40  
of toothache till after dentist was here 10/12  
(will be re-seen by dentist on 11/9/00 for  
40 toothache.) Seen on 10/25/00 by Dr. Bagman has  
cavities - Ordered Dental eval, continue proper brushing  
Penic for toothache 40 infection.

Patricia Sessner

(Signature of Department Head)

10/25/00

(Date)

**Certificate of Service**

On this 7th day of November 2000, a copy of this complaint was mailed to: U.S. District Court, Clerk of Courts, PO Box 1148, Scranton, Pa 18501.